

FACTUAL HISTORY

On August 4, 2015 appellant, then a 60-year-old retired city letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained a right hip condition in the performance of his work duties. He noted that he first became aware of his condition on July 28, 2015 and its relation to his employment on August 4, 2015. Appellant retired on November 22, 2014.

In an August 4, 2015 statement, appellant indicated that he had worked as a city letter carrier for 32 years and retired on November 22, 2014. His normal duties consisted of driving, standing, walking, bending, stooping, lifting, pushing, pulling, reaching, twisting, and turning, which he performed eight hours a day for five days a week. Appellant noted his belief that his repetitive work caused the pain on the right side of his body. He advised that his hobby was walking.

In an August 4, 2015 report, Dr. Roy Berkowitz, a general surgeon, noted that appellant worked as city mail carrier for 32 years until his November 2014 retirement. In February 2015, he started having right hip pain which started as occasional every few days and progressed to the point where it hurt daily. Dr. Berkowitz noted appellant's medical course, provided examination findings and diagnosed osteoarthritis of the right hip. He reported that a city mail carrier typically walks 10 to 12 miles a day and works five to six days per week, yielding 50 miles of walking per week. Dr. Berkowitz indicated that appellant had been doing this for 32 years and has walked approximately 80,000 miles in his career. Although appellant's pain did not become constant until after he retired, arthritis of the hip takes more than just a few months to develop. Dr. Berkowitz opined that if appellant's history was correct, he had an employment-related chronic occupational injury.

In a September 28, 2015 letter, OWCP advised appellant of the factual and medical evidence needed to establish his claim, including a detailed narrative report from his physician which included a history of the injury and a medical explanation with objective evidence of how those work factors would cause the claimed condition. Clarification was also requested as to how the February 2015 injury was related to his job duties after he retired on November 22, 2014 and how often he engaged in his hobby of walking. It afforded him 30 days to submit such evidence.

In an October 13, 2015 letter, appellant responded to OWCP's questions. He indicated that after retiring, in January 2015 he started walking about three miles two to three days a week. However, when appellant noted that his hip was hurting, he decreased the amount of time he walked. He is now unable to walk for long periods of time.

Medical reports from Dr. Berkowitz dated September 8 and October 13, 2015 diagnosed osteoarthritis of the right hip. An August 4, 2015 x-ray of his right hip was interpreted as "moderate degenerative change of the femoral head."

In an October 13, 2015 letter, Dr. Berkowitz noted that appellant walked approximately 80,000 miles in his postal career and that osteoarthritis was most often caused by use. He indicated that osteoarthritis was a degenerative disease and opined it was caused by the amount

of walking appellant did for the employing establishment. He noted that an x-ray of his right hip showed “moderate degenerative change of the femoral head.” Dr. Berkowitz stated that there was no alternative explanation for appellant’s injured hip other than his having walked so far while working for the employing establishment for 32 years.

By decision dated December 16, 2015, OWCP denied appellant’s claim, finding that although he had established the implicated employment factors, the medical evidence of record was insufficient to establish that he sustained an injury in the performance of duty. It noted that appellant retired on November 22, 2014, but did not notice his hip pain until February 2015.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁵ To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *See S.P.*, 59 ECAB 184, 188 (2007).

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *see also P.W.*, Docket No. 10-2402 (issued August 5, 2011).

⁷ *Solomon Polen*, 51 ECAB 341 (2000).

ANALYSIS

It is undisputed that appellant walked as a part of his job. Therefore, the Board finds that the first component of fact of injury is established. However, the Board finds that the medical evidence of record is insufficient to establish that this factor of his federal employment caused or aggravated appellant's right hip condition.

In his August 4, 2015 report, Dr. Berkowitz noted that appellant worked as city mail carrier for 32 years doing numerous amounts of walking during his career and had retired in November 2014. He diagnosed osteoarthritis of the right hip. Dr. Berkowitz indicated that the right hip pain started in February 2015. He opined appellant had an employment-related chronic occupational injury. Dr. Berkowitz indicated that although appellant's pain did not become constant until after he retired, arthritis of the hip takes more than just a few months to develop. In his October 13, 2015 letter, he noted that osteoarthritis was a degenerative disease and was most often caused by use. Dr. Berkowitz opined that appellant's osteoarthritis of the right hip was caused by the amount of walking appellant did for the employing establishment over a 32-year period and that there was no alternative explanation for appellant's injured hip. These reports, however, are insufficiently rationalized as they do not explain the mechanics by which workplace walking and standing versus normal everyday walking and standing caused or aggravated appellant's condition. The Board has long held that medical opinions not containing rationale on causal relationship are of diminished probative value and are generally insufficient to meet appellant's burden of proof.⁸

Accordingly, this claim is deficient because appellant has not submitted medical evidence explaining how the established work factors caused or contributed to the diagnosed condition. As noted, causal relationship is a medical question that must be established by probative medical opinion from a physician.⁹ Because appellant has not provided such medical opinion evidence in this case, he has failed to meet his burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish a right hip condition causally related to factors of his federal employment.

⁸ *J.M.*, Docket No. 15-1906 (issued January 7, 2016); *Carolyn F. Allen*, 47 ECAB 240 (1995).

⁹ See *Solomon Polen*, 51 ECAB 341 (2000) (rationalized medical evidence must relate specific employment factors identified by the claimant to the claimant's condition, with stated reasons by a physician). See also *S.T.*, Docket No. 11-237 (issued September 9, 2011).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 16, 2015 is affirmed.

Issued: March 8, 2017
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board